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# HOUSE BILL No. 1520

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.2; IC 5-10.3-6-8; IC 5-10.3-6-8.5; IC 5-10.3-7.

**Synopsis:** PERF vesting requirements. Reduces the vesting requirement for a member of the public employees' retirement fund (PERF) to five years of service from ten years of service.

**Effective:** July 1, 2003.

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## Frizzell

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January 16, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1520

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10.2-1-8, AS AMENDED BY P.L.73-2002,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2003]: Sec. 8. (a) Except as provided in subsection (b),  
4       "vested status" as used in this article means the status of having:

5               (1) ten (10) years of creditable service, **in the case of a member**  
6               **of the Indiana state teachers' retirement fund; or**

7               (2) **five (5) years of creditable service, in the case of a member**  
8               **of the public employees' retirement fund.**

9       (b) In the case of a person who is an elected county official whose  
10       governing body has provided for the county official's participation in  
11       the public employees' retirement fund under IC 5-10.3-7-2(1), "vested  
12       status" means the status of having:

13               (1) at least eight (8) years of creditable service as an elected  
14               county official in an office described in IC 5-10.2-4-1.7; or

15               (2) at least ten (10) years of creditable service as a member of the  
16               fund based on a combination of service as an elected county  
17               official and as a full-time employee in a covered position.



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(c) In the case of a person whose term of office commences after the election on November 5, 2002, as Auditor of State Secretary of State, or Treasurer of State, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

**(d) A member who is at least sixty-five (65) years of age and has at least ten (10) years of creditable service is eligible for normal retirement.**

SECTION 2. IC 5-10.2-3-1.2, AS ADDED BY P.L.61-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.2. (a) A member who has ~~earned at least ten (10) years of service~~ **attained vested status under IC 5-10.2-1-8** in a position covered by PERF, TRF, or a combination of the two (2) funds may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF. **The vesting and benefit eligibility requirements of the fund to which a member applies to receive a monthly benefit apply to the use of the service credit purchased under this section.**

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

- (1) Contributions that are equal to the product of the following:
  - (A) The member's salary at the time the member actually makes a contribution for the service credit.
  - (B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.
  - (C) The number of years of service credit the member intends to purchase.

- (2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The



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board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 3. IC 5-10.2-4-1, AS AMENDED BY P.L.73-2002,



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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This subsection applies to:

- (1) members of the public employees' retirement fund who retire before July 1, 1995; and
- (2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to members of the public employees' retirement fund who retire after June 30, 1995, **and before July 1, 2003**, except as provided in section 1.7 of this chapter.

A member is eligible for normal retirement if:

- (1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

**(c) This subsection applies to members of the public employees' retirement fund who retire after June 30, 2003. A member is eligible for normal retirement if:**

- (1) the member is at least sixty-five (65) years of age and has at least five (5) years of creditable service;**
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or**
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.**

**(d)** A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

~~(d)~~ **(e)** A member who is eligible for normal or early retirement is entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

- (1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.
- (2) The date must be after the cessation of the member's service and be the first day of a month.
- (3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the

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board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

SECTION 4. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

(1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the political subdivision's participation in the fund by:

(A) selling all of the political subdivision's assets; or

(B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

(1) The withdrawing political subdivision has provided written notice of the following to the board:

(A) The withdrawing political subdivision's intent to cease participation.

(B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members.

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1 The contribution by the withdrawing political subdivision must be  
 2 made in a lump sum or in a series of payments determined by the  
 3 board.

4 (e) A member who is an employee of the political subdivision as of  
 5 the date of the notice under subsection (c) is vested in the pension  
 6 portion of the member's retirement benefit. The withdrawing political  
 7 subdivision must contribute to the fund the amount the board  
 8 determines is necessary to fund fully the vested benefit. The  
 9 contribution by the withdrawing political subdivision must be made in  
 10 a lump sum or in a series of payments determined by the board.

11 (f) A member who is covered by subsection (e) and who is at least  
 12 sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even  
 13 if the member has fewer than ten (10) years of service, **for a member**  
 14 **who retires before July 1, 2003, or five (5) years of service, for a**  
 15 **member who retires after June 30, 2003.** The benefit for the member  
 16 shall be computed under IC 5-10.2-4-4 using the member's actual years  
 17 of service.

18 (g) With respect to members of the fund who have creditable service  
 19 with the withdrawing political subdivision and who are not employees  
 20 as of the date of the notice under subsection (c), the withdrawing  
 21 political subdivision must contribute the amount that the board  
 22 determines is necessary to fund fully the service for those members that  
 23 is attributable to service with the withdrawing political subdivision.  
 24 The contribution by the withdrawing political subdivision must be  
 25 made in a lump sum or in a series of payments determined by the  
 26 board.

27 (h) The board shall evaluate each withdrawal under this section to  
 28 determine if the withdrawal affects the fund's compliance with Section  
 29 401(a)(4) of the Internal Revenue Code of 1954, as in effect on  
 30 September 1, 1974. The board may deny a political subdivision  
 31 permission to withdraw if the denial is necessary to achieve compliance  
 32 with Section 401(a)(4) of the Internal Revenue Code of 1954, as in  
 33 effect on September 1, 1974.

34 SECTION 5. IC 5-10.3-6-8.5 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. (a) This section  
 36 only applies if:

37 (1) certain employees of a state university in a departmental,  
 38 occupational, or other definable classification involved in health  
 39 care are terminated from employment with the state university as  
 40 a result of:

41 (A) a lease or other transfer of university property to a  
 42 nongovernmental entity; or



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- 1 (B) a contractual arrangement with a nongovernmental entity  
 2 to perform certain state university functions;  
 3 (2) the state university requests coverage under this section from  
 4 the board; and  
 5 (3) the board approves the request.
- 6 (b) The withdrawal of the employees described in subsection (a)  
 7 from the fund is effective on a termination date established by the  
 8 board. The board may not establish a termination date that occurs  
 9 before all of the following have occurred:
- 10 (1) The state university has requested coverage under this section  
 11 and provided written notice of the following to the board:
- 12 (A) The intent of the state university to terminate the  
 13 employees from employment.
- 14 (B) The names of the terminated employees as of the date that  
 15 the termination is to occur.
- 16 (2) The expiration of a thirty (30) day period following the filing  
 17 of the notice with the board.
- 18 (3) The state university fully complies with subsection (c).
- 19 (c) A member who is an employee of the state university described  
 20 in subsection (a) as of the date of the notice under subsection (b) and  
 21 who is listed in the notice under subsection (b) is vested in the pension  
 22 portion of the member's retirement benefit. The state university must  
 23 contribute to the fund the amount the board determines is necessary to  
 24 completely fund the vested benefit. The contribution by the state  
 25 university must be made in a lump sum or in a series of payments  
 26 determined by the board.
- 27 (d) A member who is covered by subsection (c) and who is at least  
 28 sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even  
 29 if the member has less than ten (10) years of service, **for a member**  
 30 **who retires before July 1, 2003, or five (5) years of service, for a**  
 31 **member who retires after June 30, 2003.** The benefit for the member  
 32 shall be computed under IC 5-10.2-4-4 using the member's actual years  
 33 of creditable service.
- 34 (e) The board shall evaluate each withdrawal under this section to  
 35 determine if the withdrawal affects the fund's compliance with Section  
 36 401(a) of the Internal Revenue Code of 1954, as in effect on September  
 37 1, 1974. The board may deny an employee permission to withdraw if  
 38 the denial is necessary to achieve compliance with Section 401(a) of  
 39 the Internal Revenue Code of 1954, as in effect on September 1, 1974.
- 40 SECTION 6. IC 5-10.3-7-4.5 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) As used in this  
 42 section, "out-of-state service" means service in another state in a

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comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ~~ten (10)~~ **five (5)** years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this

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section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 7. IC 5-10.3-7-4.6, AS ADDED BY P.L.195-1999, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase service credit for the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by

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1 the member.

2 (4) The member has received verification from the fund that the  
3 service in the 1925 police pension fund, the 1937 firefighters'  
4 pension fund, or the 1953 police pension fund is, as of that date,  
5 valid.

6 (b) At least ~~ten (10)~~ **five (5)** years of service in Indiana is required  
7 before a member may receive a benefit based on service credits  
8 purchased under this section.

9 (c) A member who:

10 (1) terminates employment before satisfying the eligibility  
11 requirements necessary to receive a monthly allowance; or

12 (2) receives a monthly allowance for the same service from  
13 another tax supported public employee retirement plan other than  
14 under the Social Security Act;

15 may withdraw the purchase amount plus accumulated interest after  
16 submitting a properly completed application for a refund to the fund.

17 (d) The following apply to the purchase of service credit under this  
18 section:

19 (1) The board may allow a member to make periodic payments of  
20 the contributions required for the purchase of the service credit.  
21 The board shall determine the length of the period during which  
22 the payments must be made.

23 (2) The board may deny an application for the purchase of service  
24 credit if the purchase would exceed the limitations under Section  
25 415 of the Internal Revenue Code.

26 (3) A member may not claim the service credit for purposes of  
27 determining eligibility or computing benefits unless the member  
28 has made all payments required for the purchase of the service  
29 credit.

30 SECTION 8. IC 5-10.3-7-5, AS AMENDED BY P.L.184-2001,  
31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2003]: Sec. 5. (a) A member who:

33 (1) enters the United States armed services;

34 (2) leaves ~~his~~ **the member's** contributions in the fund;

35 (3) except as provided in subsection (c), resumes service with ~~his~~  
36 **the member's** employer within one hundred twenty (120) days  
37 after ~~his~~ **the member's** unconditional discharge; and

38 (4) would be entitled to service credit for military service under  
39 the Uniformed Services Employment and Reemployment Rights  
40 Act (38 U.S.C. 4301 et seq.) if the member had resumed service  
41 with the member's employer within ninety (90) days after  
42 discharge;

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1 is entitled to service credit for the armed service.

2 (b) A state employee who left employment before January 1, 1946,  
3 or an employee of a political subdivision who left employment before  
4 the participation date, to enter the United States armed services is  
5 entitled to service credit for the armed service if ~~he~~ **the state**  
6 **employee:**

7 (1) except as provided in subsection (c), resumes service with the  
8 employer within one hundred twenty (120) days after ~~his~~ **the state**  
9 **employee's** unconditional discharge; and

10 (2) would be entitled to service credit for military service under  
11 the applicable requirements of federal law in effect at the time of  
12 reemployment if the employee had resumed service with the  
13 employee's employer within ninety (90) days after discharge.

14 (c) The board shall extend the one hundred twenty (120) day  
15 reemployment requirement contained in subsection (a)(3) or (b)(1) if  
16 the board determines that an illness, an injury, or a disability related to  
17 the member's military service prevented the member from resuming  
18 employment within one hundred twenty (120) days after the member's  
19 discharge from military service. However, the board may not extend the  
20 deadline beyond thirty (30) months after the member's discharge.

21 (d) If a member retires and the board subsequently determines that  
22 the member is entitled to additional service credit due to the extension  
23 of a deadline under subsection (c), the board shall recompute the  
24 member's benefit. However, the additional service credit may be used  
25 only in the computation of benefits to be paid after the date of the  
26 board's determination, and the member is not entitled to a  
27 recomputation of benefits received before the date of the board's  
28 determination.

29 (e) Notwithstanding any provision of this section, a member is  
30 entitled to service credit and benefits in the amount and to the extent  
31 required by the Uniformed Services Employment and Reemployment  
32 Rights Act (38 U.S.C. 4301 et seq.).

33 (f) Subject to the provisions of this section, an active member may  
34 purchase not more than two (2) years of service credit for the member's  
35 service on active duty in the armed services if the member meets the  
36 following conditions:

37 (1) The member has at least one (1) year of credited service in the  
38 fund.

39 (2) The member serves on active duty in the armed services of the  
40 United States for at least six (6) months.

41 (3) The member receives an honorable discharge from the armed  
42 services.

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(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ~~ten (10)~~ **five (5)** years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service

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1 credit.  
2 SECTION 9. [EFFECTIVE JULY 1, 2003] **IC 5-10.3-7-4.5,**  
3 **IC 5-10.3-7-4.6, and IC 5-10.3-7-5, all as amended by this act, apply**  
4 **only to members of the public employees' retirement fund who**  
5 **retire after June 30, 2003.**

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